

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER g: GRANTS

PART 3050
OPEN LAND TRUST GRANT PROGRAM

Section

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AUTHORITY: Implementing and authorized by the Open Land Trust Act [525 ILCS 33].

SOURCE: Adopted at 24 Ill. Reg. 3600, effective February 17, 2000; amended at 26 Ill. Reg. 3479, effective February 25, 2002; amended at 28 Ill. Reg. 10655, effective July 13, 2004.

Section 3050.10 Program Objectives

The Open Land Trust Act (OLT) provides for grants to be disbursed by the Department of Natural Resources (Department) to eligible local governments for the purpose of acquiring lands for the protection of lakes, rivers, streams, open space, parks, natural lands, wetlands, prairies, forests, watersheds, resource-rich areas, greenways, significant fish and wildlife resources, and endangered or threatened species habitat, and for public outdoor natural resource related recreation purposes.

Section 3050.20 Definitions

- a) Natural Resource Related Recreation: includes, but is not limited to, backpacking, birdwatching, boating, canoeing, cross country skiing, fishing, hunting, kayaking, nature photography, non-motorized trail use (bicycling, equestrian, hiking and rollerblading), open play activities (e.g., soccer, baseball and football), orienteering, picnicking, primitive camping, trapping, wildlife viewing or other similar outdoor natural resource related activities that do not permanently change the character of the property.
- b) Disadvantaged Population: is an eligible local unit of government located within a Standard Metropolitan Statistical Area (SMSA) with a per capita equalized assessed valuation (EAV) less than 55% of the State average and more than 15% of the population below the national poverty level or an eligible unit of local government located outside an SMSA with an EAV less than 50% of the State average and more

than 20% of its population below the poverty level.

Section 3050.30 Eligibility Requirements

Agencies eligible for assistance under the OLT grant program are any unit of local government with statutory authority to acquire, develop and maintain lands for public outdoor natural resource related recreation purposes. This includes, but is not limited to, counties, townships, municipalities, park districts, conservation districts, forest preserve districts and river conservancy districts.

Section 3050.40 Assistance Formula for Grants

The OLT program shall operate on a reimbursement basis providing up to a maximum of 50% funding assistance on total approved project costs. Disadvantaged populations are eligible for up to a maximum of 90% funding assistance on total approved project costs. Projects that are the subject of a specific appropriation are eligible for up to a maximum of 90% funding assistance on total approved project costs. No more than \$2,000,000, may be awarded to any grantee for a single project for any fiscal year.

(Source: Amended at 26 Ill. Reg. 3479, effective February 25, 2002)

Section 3050.50 General Procedures for Grant Applications and Awards

- a) Grant applications for assistance under this program must be submitted in accordance with a schedule publicly announced annually by the Department. Failure to submit a completed application to the Department by the specified application deadline date will result in project rejection for that particular year. Projects that are the subject of a specific appropriation shall not be subject to the schedule announced pursuant to this Section; however, all other eligibility and application requirements must be fulfilled.
- b) Necessary application material and instructions are available through the Department. Awarding of grants will be on a competitive basis (see Section 3050.70) and will be made under authority of the Director of the Department of Natural Resources.
- c) Project grant applications will consist of the following components:
 - 1) applicant's name, address and telephone number;
 - 2) information on the supply of existing public park and open space acreage located within the project sponsor's (applicant) jurisdiction;
 - 3) an itemized proposed project cost estimate;
 - 4) project narrative statement describing the project concept, location, need for and objectives of the project, anticipated benefits, proposed usages and method of financing or accomplishing the project;

- 5) project location map, site plat map and proposed site development and/or restoration plans;
 - 6) project environmental evaluation;
 - 7) a document signed by the applicant verifying the applicant has the resources to initially finance and subsequently manage the project area and will comply with program regulations; and
 - 8) a commitment for title insurance in the name of the project sponsor for the property planned for acquisition or other Department approved means of title search.
- d) A program information packet may be obtained from the Division of Grant Administration, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271, telephone 217/782-7481.

(Source: Amended at 27 Ill. Reg. 10655, effective July 13 2004)

Section 3050.60 Eligible Project Costs

- a) Grant assistance may be obtained for land acquisition costs for the conservation of open space, natural resources and public natural resource related recreation purposes, including associated eligible appraisal and relocation costs. Eligible projects include, but are not limited to, acquisition of land for the following:
 - 1) Natural resource conservation and open space purposes to protect lakes, rivers, streams, open space, natural lands, wetlands, prairies, forests, watersheds, resource-rich areas, greenways, significant fish and wildlife resources, and endangered or threatened species habitats, existing forest preserves, conservation areas, nature preserves, and land and water reserves, and/or unique geologic or biologic features; and
 - 2) additions to such existing public areas.
- b) Project costs for which reimbursement is sought cannot be incurred by the project applicant prior to grant approval notification or Department authorization. Costs incurred prior to Department approval are ineligible for grant assistance. For acquisition projects, costs are considered incurred when property deed, lease or other conveyance is accepted by the local sponsor or first payment is made on the project property or to an escrow account for the property. In addition, no purchase agreement, option, etc., or price negotiations shall be entered into without Department approval.
- c) No grant awards shall be awarded for the acquisition of land that will not be available for general public outdoor natural resource related recreation purposes unless

otherwise approved by the Department.

- d) No grant awards shall involve the use of eminent domain. Land interests must be purchased from willing sellers only.

Section 3050.70 Project Evaluation Priorities

- a) The following factors shall be used by the Department in evaluating and recommending local project applications for funding assistance consideration:

- 1) Statewide Natural Resource and Natural Resource Related Outdoor Recreation Priorities - 60%

- A) Department Statewide Priorities - 67%

Projects are evaluated in terms of their ability to address major outdoor natural resource related recreation and conservation purposes and issues identified by the Department in statewide or regional plans. These include, but are not limited to, the protection and stewardship of lakes, rivers, streams, open space, parks, natural lands, wetlands, prairies, forests, watersheds, resource-rich areas, greenways, significant fish and wildlife resources, and endangered or threatened species habitats; and the extent to which the project contributes to the ecological viability of a park, conservation area, forest preserve, nature preserve, land and water reserve, greenway and long distance trail corridors. These priorities are listed in the Department's OLT Local Participation Grant Manual, available from the Illinois Department of Natural Resources Division of Grant Administration, One Natural Resources Way, Springfield IL 62702-1271.

- B) Statewide Local Needs Assessment - 33%

Determination of local need is based on a comparison of existing supply and distribution of open space and park land acreage, measured in acres/capita, to the statewide median and/or to locally adopted standards. Natural resource related recreation needs based on project service area are also given consideration.

- 2) Project Concept and Site Characteristics - 25%

The project proposal is evaluated in terms of the site's ecological resources and aesthetic qualities, including accessibility; soil, topographic and hydrologic characteristics; site vegetation; wildlife benefits; compatibility with adjacent land uses; environmental intrusion on the site; and demonstrated commitment to natural resource restoration and management

of the site, sites threatened with development, impacts to cultural and natural resources, and the natural resources related recreation provided by the project.

3) Local Planning - 10%

The major consideration under this criterion is public support and input into the project plan and existence of a comprehensive local open space plan identifying the proposed project as a priority. Consideration is also given for natural resource related recreation opportunities not specifically identified in a local plan but having documented widespread public support.

4) Other Considerations - 5%

Relevant factors considered in evaluating the overall merits of a project and need for funding include projects located in inner-urban areas; involving private donations and match that leverages local funds; or from applicants not previously benefitting from OLT assistance.

5) Penalty Factors - (deduct up to 15%)

Consideration is given to the applicant's past performance in completing OLT or other Department grant projects, restoration or development plans or unresolved project violations; ability to properly maintain the project site; and failure to participate with the Department in completing the "Illinois Recreation Facilities Inventory" (IRFI).

b) Project Application Review and Grant Award

Department grant staff, in consultation with executive and appropriate resource staff, reviews all applications in accordance with the established evaluation criteria. Preliminary recommendations are then submitted to the Department's Natural Resource Advisory Board for consideration at a public hearing conducted by the Board, after which final recommendations are forwarded to the Director for OLT grant approval.

(Source: Amended at 28 Ill. Reg. 10655, effective July 13, 2004)

Section 3050.80 Program Compliance Requirements

- a) Any property acquired through assistance from the Illinois OLT grant program must be open to the public for outdoor natural resource related recreation purposes unless the Department determines that public accessibility would be detrimental to the real property or any associated natural resources. Land acquired with funding assistance from the OLT program shall be operated, managed and maintained for the purposes identified in the grant application in perpetuity unless otherwise approved by the

Department. No real property acquired with grant funds may be sold, leased, exchanged, or otherwise encumbered, unless it is used to qualify for a federal program, or, subject to Department approval, is transferred to the federal government, the State, or a unit of local government for a compelling public purpose. Approval for property conversion may be granted by the Department if the project sponsor substitutes replacement property of equal fair market value, natural resource value and comparable outdoor recreation usefulness, quality and location.

- b) An appraisal must be provided by the sponsoring agency and submitted to the Department for review to establish the property's fair market value. The appraisal must be completed to Department specifications.
- c) The local project sponsor is required to enter into an agreement with the Department for an amount agreed upon as necessary to complete the approved project, specifying the related grant reimbursement amount and program compliance regulations.
- d) Upon project completion, the project sponsor must submit a project billing request (expenditure statement) listing/verifying all funds expended on the project for which grant reimbursement is sought, as well as required billing documentation, as follows:
 - 1) proof of good faith negotiations or fair market value offer to land seller;
 - 2) copy of property deed and title insurance policy showing ownership transferred to the local project sponsor; and
 - 3) copies of canceled checks showing proof of payment to seller.
- e) Financial records on approved projects must be maintained and retained by the project sponsor for possible State audit for a period of five years after final reimbursement payment is made by the Department.
- f) The sponsoring agency must permanently post an OLT grant acknowledgment sign at the project site. The necessary sign will be provided by the Department or specifications for its construction will be furnished to the local project sponsor, if requested.
- g) Projects assisted with OLT grant funds shall be implemented in accordance with all applicable federal, State and local laws, ordinances and regulations relating to public agency expenditure of funds for public works projects.
- h) A final acceptance of the completed project must be made by a representative or agent of the Department prior to final payment of grant reimbursement to the project sponsor. Acceptance by the Department will be subject to completion of all action required of the local sponsor as indicated in this Part.
- i) The sponsoring agency shall convey to the Department at no charge a conservation

easement on the lands acquired with OLT assistance.

- j) The sponsoring agency must comply with and abide by the following operation and maintenance provisions:
 - 1) All lands assisted with OLT funds shall be continuously operated and maintained by the sponsoring agency in a safe and attractive manner at no cost to the Department and be operated and utilized in such a manner as to maximize the intended benefits to and for the public.
 - 2) The Department shall have access to OLT-assisted lands at all times for inspection purposes to ensure the project sponsor's continued compliance with this Part.
 - 3) The sponsoring agency may enter into a contract or agreement with responsible concessionaires to operate and/or construct facilities desired by the public and the sponsoring agency that are important for enjoyable and convenient natural resource based recreation. Any and all concession revenue in excess of the costs of operation and maintenance of the OLT lands and/or facilities shall be used for the improvement of those lands or facilities or similar nearby public facilities. All licenses entered into by the sponsoring agency with third persons relating to accommodations or concessions to be provided for or at the OLT facility for benefit of the public shall be submitted to the Department for its approval prior to the license being entered into or granted by the sponsoring agency.
 - 4) The project sponsor shall receive approval from the Department prior to initiating any development on OLT assisted lands. Approval will be limited to those facilities that are necessary for enjoyable and convenient natural resource related recreation.
- k) Conflict of Interests
 - 1) No official or employee of the local political subdivision who is authorized in his official capacity to negotiate, make, accept, or approve or to take part in decisions regarding a contract or subcontract in connection with an approved OLT grant project shall have any financial or other personal interest in any such contract or subcontract.
 - 2) No person performing services for the local political subdivision in connection with an approved OLT grant project shall have a financial or other personal interest, other than his employment or retention by that local political subdivision, in any contract or subcontract in connection with an approved OLT grant project. No officer or employee of such person retained by the local political subdivision shall have any financial or other personal interest in any real property acquired under an approved OLT grant project

unless that interest is openly disclosed upon the public records of the local political subdivision and that officer, employee or person has not participated in the acquisition for, or on behalf of, the local political subdivision.

- l) The project sponsor shall certify that it provides a drug free workplace and related employee assistance as defined and required by the Drug Free Workplace Act [30 ILCS 105/16].
- m) Pursuant to 775 ILCS 5/2-105(A)(4), the project sponsor shall certify that it has a written sexual harassment policy that includes, at a minimum, the following information:
 - 1) the illegality of sexual harassment;
 - 2) the definition of sexual harassment under State law;
 - 3) a description of sexual harassment utilizing examples;
 - 4) the contractor's internal complaint process, including penalties;
 - 5) the legal recourse, investigation and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and
 - 6) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act [775 ILCS 5/6-101]. A copy of the policy shall be provided to the Department of Human Rights upon request.
- n) Program Violations and Project Termination
 - 1) The State will unilaterally rescind project agreements at any time prior to the commencement of the project in the event that State funds are not appropriated for the grant program. After project commencement, agreements may be rescinded, modified or amended only by mutual agreement with the local political subdivision. A project shall be deemed to be commenced when the local political subdivision makes any expenditure or incurs any obligation with respect to the project.
 - 2) Failure by the local sponsoring agency to comply with any of the program terms listed in this Section shall be cause for the suspension of all grant assistance obligations, unless, in the judgement of the Department, the failure was due to no fault of the local sponsoring agency (e.g., statutory changes, acts of God).

Section 3050.90**Program Information/Contact**

For information on the OLT Grant Program, contact:

Illinois Department of Natural Resources
Division of Grant Administration
One Natural Resources Way
Springfield IL 62702-1271
Telephone: 217/782-7481
FAX: 217/782-9599

(Source: Amended at 28 Ill. Reg. 10655, effective July 13, 2004)